

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

TYRONE DWAYNE MILLER,

Civil No. 07-3956 (JRT/FLN)

Plaintiff,

v.

CHRISTOPHER B. COLEMAN, City of
St. Paul; SERGEANT JOHN
HARRINGTON, Chief of Police; CITY
OF ST. PAUL POLICE DEPARTMENT;
and SHERIFF JOHN DOE, Ramsey
County Sheriff's Department,

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Defendants.

Tyrone D. Miller, 4911 University Avenue N.E., Apartment #8,
Minneapolis, MN 55421, *pro se* plaintiff.

Plaintiff Tyrone Miller brought this action under 42 U.S.C. § 1983 alleging various violations of his civil rights. Miller also brought a motion to proceed *in forma pauperis* ("IFP") under 28 U.S.C. § 1915(a)(1). In a Report and Recommendation addressing Miller's motion to proceed IFP, United States Magistrate Judge Franklin L. Noel recommended that this Court dismiss this action with prejudice, because Miller's complaint fails to state a claim on which relief could be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(ii). After Miller objected to that recommendation, this Court reviewed the Report and Recommendation *de novo*. *See* 28 U.S.C. § 636(b)(1)(C); Local Rule 72.2(b). In an Order dated March 31, 2008, this Court considered the various types of claims available under § 1983, and concluded that even construing Miller's *pro se*

complaint liberally, *see Horsey v. Asher*, 741 F.2d 209, 211 n.3 (8th Cir. 1984), it failed to include an actionable allegation. The Court therefore dismissed this action with prejudice.

On August 4, 2008, Miller filed a motion for relief from judgment pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. The grounds for relief under Rule 60(b) include “mistake, inadvertence, surprise, or excusable neglect,” “newly discovered evidence,” and “fraud[,] misrepresentation, or misconduct by an opposing party.” The Magistrate Judge issued a Report and Recommendation on August 12, 2008, concluding that Miller failed to state a basis for relief under any of the provisions of Rule 60(b). Accordingly, the Magistrate Judge recommended that Miller’s motion be denied.

The Report and Recommendation was then mailed to Miller’s last known address. On August 18, 2008, however, the Report and Recommendation was returned to the Court as undeliverable. Miller has filed no objections to the Report and Recommendation and has had no further contact with this Court.

Litigants are generally responsible for updating the Court following any address changes. *See, e.g.*, E.D. Ark. Civ. R. 5.5 (requiring *pro se* plaintiffs to notify the Court of any changes in their address). In any event, the Court has reviewed the Report and Recommendation *de novo*, and agrees with the conclusion of the Magistrate Judge. Miller’s three-page motion merely quotes the relevant legal standard, indicates his interest in alternative dispute resolution, and summarily asserts that he has been the victim of a conspiracy. He offers no facts in support of his motion, and does not otherwise state a basis for revisiting this Court’s prior ruling. Accordingly, this Court

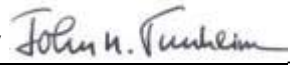
adopts the Report and Recommendation of the Magistrate Judge and denies Miller's motion for relief from judgment.

ORDER

Based on the foregoing records, files, and proceedings herein, the Court **ADOPTS** the Magistrate Judge's Report and Recommendation dated August 12, 2008 [Docket No. 9] is **ADOPTED**. Accordingly, **IT IS HEREBY ORDERED** that Miller's motion for relief from judgment [Docket No. 8] is **DENIED**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

DATED: December 15, 2008
at Minneapolis, Minnesota.

s/ 

JOHN R. TUNHEIM
United States District Judge